

Drug Testing Pregnant Patients: What You Need to Know

Are you a pregnant person seeking medical care from a hospital?

Did you know that hospitals have been found to routinely drug test pregnant people without their informed consent?

This could be happening to you without your knowledge and may lead to harmful consequences such as:

- Your children being taken away from you
- Invasive child welfare investigations
- Lost bonding time with your newborn
- The inability to breastfeed

This type of drug testing practice has been shown to be discriminatory, damage the doctor-patient relationship, and can deter pregnant people from obtaining prenatal and perinatal care. Especially in the wake of the Supreme Court's ruling to overturn Roe v. Wade, it is more critical than ever that pregnant people have both the information and autonomy they need to make informed decisions.

Leading medical authorities, such as the American College of Obstetricians and Gynecologists ("ACOG"), reject practices that screen pregnant people for substance use via drug testing. Seeking obstetric-gynecologic care should not expose people to criminal or civil penalties, such as incarceration, involuntary commitment, loss of custody of their children, or loss of housing. Notably, the ACOG recognizes substance use reporting during pregnancy unjustly singles out the most vulnerable, particularly people with low incomes and people of color.

YOUR RIGHTS

You have the right to:

- Privacy within your family and to parent your children the way you want to.
- Receive medical treatment without discrimination as to race, color, national origin, age, disability, or sex (including pregnancy, sexual orientation, and gender identity).
- Receive all the information that you need to give informed consent for any proposed procedure or treatment. This information shall include the possible risks and benefits of the procedure or treatment.
- Refuse medical treatment.
- Confidentiality of your healthcare records.

FOR MORE INFORMATION

For more information and assistance, contact Legal Momentum's Helpline at 1-800-649-0297, Help@LMHelpline.org, or <https://www.legalmomentum.org/get-help-form> to get help today.

Disclaimer: This does not constitute legal advice and should not be relied upon as such. Individuals and organizations considering legal action should consult their own legal counsel.

TAKE ACTION

If you believe that you have been subjected to this practice, you have various ways to take action.

- Ask your medical providers whether you will be drug tested at any point while receiving care for your pregnancy.
- Take notes while things are happening; having a record can help you prove what happened.
- Request a copy of your medical records for past treatment.
- Ask to have policies explained or explained again by someone else, see policies in writing, and/or have information translated or interpreted.
- Ask for a consultation with a Patient Advocate, Ethics Committee member, or Translator if available.
- File a formal complaint with the hospital's internal complaints office if applicable.
- Contact your state's civil rights office to find out if your case warrants a discrimination complaint.
- Seek legal consultation to determine if your claims warrant a lawsuit.